

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: October 31, 2018

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TIMOTHY WERNER BOOTHE,

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UNPUBLISHED

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Petitioner,

*

No. 17-1560V

*

v.

*

Special Master Gowen

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Decision on Damages; Table Injury;
Influenza Vaccine; Guillain-Barré
Syndrome (“GBS”).

*

*

Respondent.

*

* * * * *

Robert Oushalem, San Jose, CA, for petitioner.

Linda S. Renzi, United States Department of Justice, Washington, DC, for respondent.

DECISION ON DAMAGES¹

On October 19, 2017, Timothy Werner Boothe (“petitioner”) filed a petition for compensation (“Petition”) under the National Vaccine Injury Compensation Program (“the Program”).² Petitioner alleged that he suffered Guillain-Barré Syndrome (GBS) as a result of receiving an influenza (“flu”) vaccination on October 3, 2016. Petition at 1.

On September 14, 2018, respondent filed his report in accordance with Vaccine Rule 4(c), in which respondent provides that petitioner’s claim was appropriate for compensation. Respondent (“Resp.”) Report (“Rpt.”) at 1. On September 17, 2018, the undersigned issued a ruling that petitioner is entitled to compensation. Ruling on Entitlement (ECF No. 24).

¹ Pursuant to the E-Government Act of 2002, see 44 U.S.C. § 3501 note (2012), **because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the website of the United States Court of Federal Claims.** The court’s website is at <http://www.uscfc.uscourts.gov/aggregator/sources/7>. Before the ruling is posted on the court’s website, each party has 14 days to file a motion requesting redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). “An objecting party must provide the court with a proposed redacted version” of the ruling. Id. **If neither party files a motion for redaction within 14 days, the ruling will be posted on the court’s website without any changes.** Id.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter “Vaccine Act” or “the Act”).

On October 30, 2018, respondent filed a Proffer on an award of compensation, which indicates petitioner's agreement to compensation on the terms set forth therein. Proffer (ECF No. 29). I have reviewed the Proffer and do award damages in accord with it. The Proffer is incorporated herein and made a part hereof as Appendix A. Based on the record as a whole, I find that petitioner is entitled to an award as stated in the Proffer.

Consistent with the terms of the Proffer, the undersigned awards the following in compensation:

(A) A lump sum payment of \$245,852.11 (representing \$36,326.97 for past and future lost wages; \$9,525.14 for past unreimbursed expenses; and \$200,000.00 for past and future pain and suffering) in the form of a check payable to petitioner, Timothy Werner Boothe.

This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a).

The Clerk of the Court is directed to **ENTER JUDGMENT** in accordance with this decision.³

IT IS SO ORDERED.

s/Thomas L. Gowen

Thomas L. Gowen
Special Master

³ Pursuant to Vaccine Rule 11(a), the entry of judgment is expedited by the parties jointly or separately filing notice renouncing their right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

TIMOTHY WERNER BOOTHE,)	
)	
Petitioner,)	
)	
v.)	No. 17-1560V
)	Special Master
)	Thomas L. Gowen
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Compensation for Vaccine Injury-Related Items

On September 17, 2018, the Special Master issued a Ruling on Entitlement finding that petitioner is entitled to vaccine compensation. Respondent proffers based on the evidence in the record that petitioner should be awarded \$245,852.11. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Items of Compensation and Form of the Award

The parties recommend that the compensation provided to petitioner should be made through lump sum payments as described below, and request that the Special Master’s decision and the Court’s judgment award the following:¹

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

A. Petitioner's Damages

A lump sum payment of \$245,852.11 (representing \$36,326.97 for past and future lost wages; \$9,525.14 for past unreimbursed expenses; and \$200,000.00 for past and future pain and suffering), in the form of a check payable to petitioner, Timothy Werner Boothe. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

B. Guardianship

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

III. Summary of Recommended Payments Following Judgment

A. Lump sum paid to petitioner	\$245,852.11
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Respectfully submitted,

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s/Linda S. Renzi
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DATE: October 30, 2018